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WATER RESOURCES  
WESTERN REGION

**BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 63-34652 IN THE NAME  
OF CAT CREEK ENERGY, LLC

**PETITION TO INTERVENE AND IN THE  
ALTERNATIVE NOTICE OF PROTEST**

SUEZ Water Idaho Inc. (“SUEZ”), by and through its attorney Givens Pursley LLP, hereby submits this *Petition to Intervene* and in the alternative a *Notice of Protest* in the above-captioned matter pursuant to Idaho Code Section 42-203A(4) and Rules 250, and 350 through 354 of the Idaho Department of Water Resources (“Department” or “IDWR”). IDAPA 37.01.01.250 and 350 to .354.

This matter involves Application for Permit No. 63-34652 (“*Application*”) filed by applicant Cat Creek Energy, LLC (“Cat Creek”), on April 1, 2019. The Department published notice of the *Application*, and the deadline for filing protests is June 24, 2019. To date, a number of Notices of Protest have been filed. No prehearing date or other dates pertaining to the contested case have been scheduled yet.

SUEZ seeks to participate in the consideration of the *Application* and any further proceedings or appeals in this matter. Entities that are not applicants or protestants in a proceeding before the Department who claim a “direct and substantial interest [in the proceeding] may petition for an order from the presiding officer granting intervention to become a party.” IDAPA 37.01.01.350. A petition to intervene showing “a direct and substantial interest in any part of the subject matter of a proceeding” that “does not unduly broaden the issues” may be granted by the presiding officer “subject to reasonable conditions, unless the applicant’s interest is adequately represented by existing parties.” IDAPA 37.01.01.353. “Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice.” IDAPA 37.01.01.352.

The *Application* is for a storage water right for irrigation, municipal, and mitigation purposes. SUEZ has a direct and substantial interest in the *Application*’s municipal and mitigation storage uses. SUEZ’s interest in the municipal storage component of the *Application* is expressly stated in the *Application*. Also, included in the Department’s file on the *Application* is a copy of a Memorandum of Understanding (the “MOU”) that sets forth the basic terms and conditions between SUEZ and Cat Creek for discussing and negotiating a future sale of shares in municipal storage water impounded in the new reservoir Cat Creek seeks to construct under the *Application*. As indicated in the *Application*, SUEZ may also be interested in the *Application*’s mitigation storage component.

It is not clear whether, or with what conditions, the Department might approve the *Application*. SUEZ desires that the *Application* be approved, but only with conditions acceptable

to SUEZ. Accordingly, SUEZ must be granted intervention to ensure that the *Application* is approved with conditions that are acceptable to SUEZ.

SUEZ's interests are not represented by Cat Creek or the Protestants. Cat Creek seeks approval of the *Application* and to sell shares of storage water to SUEZ. However, Cat Creek is not SUEZ's agent and does not represent SUEZ's interests with respect to obtaining additional water supplies. Cat Creek simply does not fully understand the SUEZ's water supply needs, or whether any elements or conditions of a permit granted under the *Application* will satisfy SUEZ's needs. Cat Creek could conceivably agree to or accept terms or conditions that are unacceptable to SUEZ with respect to the protests and the *Application* in general. SUEZ must participate in this contested case so it can defend its rights and interests.

Concerning the Protestants, obviously they do not represent SUEZ's interests. All of the Protestants oppose approval of the *Application*. SUEZ does not oppose approval of the *Application*.

SUEZ does not seek to broaden the issues in this proceeding beyond those raised in the *Application* and protests.

Accordingly, SUEZ respectfully requests that the Department grant SUEZ's petition to intervene in this proceeding.

In the alternative, SUEZ seeks to protest approval of the *Application* with elements or conditions unacceptable to SUEZ. Anyone may file a protest against the approval an application, I.C. § 42-203A(4), together with a \$25 filing fee (enclosed).

Respectfully submitted this 24<sup>TH</sup> day of June, 2019.

GIVENS PURSLEY LLP

By



Michael P. Lawrence  
*Attorney for SUEZ Water Idaho Inc.*

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24<sup>th</sup> day of June, 2019, the foregoing was filed, served, and copied as follows:

#### DOCUMENT FILED:

Idaho Department of Water Resources  
Western Region  
2735 Airport Way  
Boise, ID 83705

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Overnight Mail  
Facsimile  
E-mail

#### SERVICE COPIES TO:

Cat Creek Energy, LLC  
c/o David R. Tuthill, Jr.  
Idaho Water Engineering  
2918 N. El Rancho Pl.  
Boise, ID 83704

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U. S. Mail  
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Boise Project Board of Control  
c/o Albert P. Barker  
Barker, Rosholt & Simpson LLP  
1010 W. Jefferson St., Ste. 102  
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Boise, ID 83701-2139

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c/o Richard F. Goodson and Dana L. Hofstetter  
Hawley, Troxell, Ennis & Hawley, LLP  
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S Bar Ranch, LLC  
c/o Richard F. Goodson and Dana L. Hofstetter  
Hawley, Troxell, Ennis & Hawley, LLP  
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Idaho Department of Lands  
Michele Andersen  
3284 W Industrial Loop  
Coeur d'Alene, ID 83815

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Trout Unlimited Inc.  
Peter Anderson  
910 W Main St, Ste 342  
Boise, ID 83702

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<input type="checkbox"/>	Facsimile
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City of Boise  
Abigail Germaine  
PO Box 500  
Boise, ID 83701

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Michael P. Lawrence